



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,086	03/16/2004	Garrett Blythe	353980-991100	4038
26379	7590	02/06/2008		
DLA PIPER US LLP 2000 UNIVERSITY AVENUE E. PALO ALTO, CA 94303-2248			EXAMINER NGUYEN, DAT	
			ART UNIT	PAPER NUMBER
			3714	
			MAIL DATE	DELIVERY MODE
			02/06/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

8

Office Action Summary	Application No. 10/802,086	Applicant(s) BLYTHE ET AL.	
	Examiner DAT T. NGUYEN	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

This office action is responsive to the amendments filed on 08/27/2007 in which applicant amends claims 1, 3, 4, 6, 12, 13, 18, 19 and 20 and responds to claim rejections. Claims 1-26 are pending.

Drawings

The objection as stated in the previous office action dated 07/20/2007 is maintained and incorporated herein. Applicant has not submitted corrected drawings or responded to the previous objection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 and 7-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Kirmse (US patent pub. 2002/0086732).

The rejection as stated in the previous office action dated 07/20/2007 is maintained, and incorporated herein.

Regarding the amended claim language of claim 1, “wherein the client program is further adapted to search for and detect one or more of the games on the terminal.” Kirmse explicitly discloses that the system checks if the game program is installed in the terminal [0056].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kirmse in view of Garg (US patent pub. 2004/0032876).

The rejection as stated in the previous office action dated 07/20/2007 is maintained, and incorporated herein.

Claims 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kirmse in view of Murray (US patent pub. 2002/0094870).

The rejection as stated in the previous office action dated 07/20/2007 is maintained, and incorporated herein.

Response to Arguments

Applicant's arguments filed 11/20/2007 have been fully considered but they are not persuasive.

Regarding arguments drawn towards the patentability of claims 1-25 over Kirmse, applicant alleges that the amended claim language of searching and detecting one or more games on the terminal is not disclosed by the prior art. The examiner respectfully disagrees. Kirmse does in fact disclose such limitations as discussed in the above office action.

Regarding arguments drawn towards the patentability of claims 25 and 26, the examiner respectfully disagrees. For the sake of clarity, the examiner will restate the rejection in another way. Claim 25 requires:

A method for communicating over a computer network comprising:

Detecting when first individuals stored on a list associated with a user are on the network, detecting when a second individuals stored on a list associated with one or more of the first individuals are on a network. Said another way, a first set of individuals are associated with a user's buddy list, and a second set of individuals associated with one or more of the first set, which is then interpreted to the examiner as making friends of friends visible to a user as taught by the Murray reference in figure 14 and [0093].

The second requirement of the claims require that the network notifies the user when the first and second individuals are on the network; the buddy list as shown on figures 8 and 9 communicate to the user that certain buddies of his list are present on the network.

And finally, allowing for the user to send and receive messages form the first and second individuals; as taught by [0054] which states that "debbie95055 (the user) will be presented other options, such as 'Send a Message.'"

It appears to the examiner from applicant's arguments that the applicant is attacking the references individually that is. Applicant states Murray lacks in teaching notifying the user when buddies are online and that Kirmse lacks in disclosing the first and second individuals. In response to Applicant's piecemeal analysis of the references, it has been held that one cannot show non-obviousness by attacking references individually where, as here, the rejections are based on combinations of references. *In re Keller*, 208 USPQ 871 (CCPA 1981).

Conclusion


THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAT T. NGUYEN whose telephone number is (571)272-2178. The examiner can normally be reached on M-F 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571)272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


ROBERT E. PEZZUTO
SUPERVISORY PRIMARY EXAMINER